THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NOs.4377, 4378, 4379 and 4397 of 2003

Date: 25th September 2006

WRIT PETITION NO.4377 OF 2003:

Between:

1. Fishermen Cooperative Society Ltd.,
   Bollepalli, Bhongir Mandal, Nalgonda District,
   Rep. by its President and another.

…. Petitioners.

And

1. Andhra Pradesh Co-operative Tribunal,
   Hyderabad, represented by its Presiding Officer,
   Chandravihar Complex, Nampally,
   Hyderabad and another.

…. Respondents.

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WRIT PETITION NO.4378 OF 2003:

Between:

1. Fishermen Cooperative Society Ltd.,
   Bollepalli, Bhongir Mandal, Nalgonda District,
   Rep. by its President and another.

…. Petitioners.

And

1. Andhra Pradesh Co-operative Tribunal,
   Hyderabad, represented by its Presiding Officer,
   Chandravihar Complex, Nampally,
   Hyderabad and another.

…. Respondents.

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WRIT PETITION NO.4379 OF 2003:

Between:

1. Fishermen Cooperative Society Ltd.,
   Bollepalli, Bhongir Mandal, Nalgonda District,
   Rep. by its President and another.

…. Petitioners.

And

1. Andhra Pradesh Co-operative Tribunal,
   Hyderabad, represented by its Presiding Officer,
   Chandravihar Complex, Nampally,
   Hyderabad and another.

…. Respondents.

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WRIT PETITION NO.4397 OF 2003:

Between:

1. Fishermen Cooperative Society Ltd.,
   Bollepalli, Bhongir Mandal, Nalgonda District,
   Rep. by its President and another.

…. Petitioners.

And

1. Andhra Pradesh Co-operative Tribunal,
   Hyderabad, represented by its Presiding Officer,
   Chandravihar Complex, Nampally,
   Hyderabad and another.

…. Respondents.

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COMMON ORDER:

Since the questions of fact and law that arise for consideration in all these writ petitions are common, they are being disposed of by this common order.

2. There is no necessity of going into all the details. It seems that the members of the first petitioner society were purported to be expelled under Section 21(3) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). Aggrieved by the same, they have filed an appeal before the A.P. Cooperative Tribunal at Hyderabad. The appellate authority noticed as under:

> " No doubt, we see some force in the contention of the learned counsel for respondents that wrong mention of Section 21(3) instead of correct Section 23(1) of the Act was due to lack of adequate knowledge of the Act by R1 and R2 who are not educated but the fact remains that R2 having already prejudged the issue of expulsion of the appellants in the Executive Committee meeting held on 26.7.2002 wherein it was already resolved unanimously to expel the appellants, and there being no mention of any notice contemplated to be issued to members to give them an opportunity of hearing before expelling them on such serious charges, subsequent decision of the General Body meeting held on 11.8.2002 obviously presided over by R2 and consisting of certain ineligible members, as contended by the learned counsel for the appellants was an empty formality as R2 appears to have gained dominion over the General Body and compelled it to brush aside the explanations of the appellants as they made serious counter allegations

against him and succeeded in making the General Body to approve the already taken unanimous decision of the Executive Committee held on 26.7.2002 to expel the appellants. That was how mistakes had crept in issuance of notice dated 22.2.2002 by correcting it as 26.2.2002 but there was no mention of any decision to issue any such notice in the minutes of the Executive Committee held on 26.2.2002; and notice dated 26.7.2002 in which date of notice '22.7.2002' was corrected as '26.7.2002' but reference was made to the resolution of the General Body held on 11.8.2002 which was posterior to the impugned notice dated 26.7.2002 and no decision having been taken by the General Body on 26.7.2002 to expel the appellants from R-1-Society, the impugned notice was not legal and binding on the appellants as it suffers from *mala fides* on the part of R-2 President as mentioned in the explanation of the appellants and lacks *bona fides* and R2 President has no propriety to preside over the General Body when serious allegations were made against himself. Instead of presiding over the General Body himself, he ought to have allowed a senior member of the Executive Committee to preside over it to consider the contents of explanations of the appellants to the antedated show cause notice (dated 22.7.2002 corrected as 26.7.2002) objectively dispassionately and take a proper decision. Since the impugned order is liable to be set aside on this ground alone we deem it not necessary to go into other contentions raised by the learned counsel for the appellants."

In view of the above, I am of the considered opinion that the Tribunal has not committed any error in coming to the conclusion either as to invoking a wrong provision of law or as to preceding of expulsion notices, before the General Body passes the resolution. Therefore, the Tribunal has rightly come to the conclusion that the

impugned order/notice dated 26.7.2002 pursuant to the resolution of the General Body held on 11.8.2002 is liable to be set aside. The Tribunal has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. These writ petitions are devoid of merits and are liable to be dismissed.

3. Accordingly these four writ petitions are dismissed. However, this will not preclude the society from taking appropriate action as per law.

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C.V.RAMULU, J.

Date: 25th September 2006.
BSB